REMARKS

Favorable consideration and allowance are respectfully requested for claims 1, 3-7, 9-22 in view of the foregoing amendments and the following remarks.

In the Office Action dated December 24, 2002, the drawings were objected to; claims 7 and 8 were rejected under 35 U.S.C. § 101; claims 1,2, 4, and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Nos. 6,356,940 ("Short"), 5,233,520 ("Kretsch"), 5,974,396 ("Anderson"), and 5,960,403 ("Brown"); claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Short, Kretsch, Anderson, and Brown as applied to claim 1, in view of U.S. Patent No. 6,387,956 ("Shapira"); claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Short, Kretsch, Anderson, and Brown as applied to claim 4, in view of U.S. Patent No. 5,930,759 ("Moore"); and claims 7-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Nos. 6,401,072 ("Haudenschild"), 4,951,197 ("Mellinger"), 5,787,186 ("Schroeder"), 5,332,579 ("Umbdenstock"), 6,375,077 ("Hankins"), 5,542,420 ("Goldman"), and 4,636,949 ("Longabaugh"). These rejections are respectfully traversed.

Drawings

The Examiner objected to the Figures 4-14, stating that a descriptive label for each numbered element would enable better understanding of the figures "without substantial analysis of the detailed specification." As such, Applicant has modified these figures in accordance with the Examiner's suggestion and has provided a

redlined version and a formal version. Withdrawal of the objection is respectfully requested.

Rejection under 35 U.S.C. § 101

Claims 7 and 8 were rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter. Claim 8 has been cancelled. Claim 7 has been amended to provide additional "inter-relationship description between fields listed." Accordingly, withdrawal of the rejection of claims 7and 8 is respectfully requested.

Rejections under 35 U.S.C. § 103(a)

Claims 1, 2, 4, and 5 were rejected as being unpatentable over Short, Kretsch, Anderson, and Brown. Claim 1 has been amended to include the recitation of "transmitting user assessments of the dietary information to the dietary information database for access by future users," which is at least supported by the specification at page 3, paragraph 1. The office action, at page 5, states that "'...evaluations of the dietary information...' is taught by Short at col. 2, lines 13-21 and col. 2, lines 60-62." The passages cited by the Examiner appear to relate to suggested modifications of the user's diet that are communicated <u>to</u> the remote users. As amended, claim 1 clearly recites that assessments are communicated <u>from</u> users to the dietary information database for access by future users.

Accordingly, withdrawal of the rejection of claim 1, and its dependent claims 3 and 11-18, is respectfully requested.

Claim 3 was rejected under as being unpatentable over Short, Kretsch, Anderson, and Brown as applied to claim 1, in view of Shapira. Claim 3 has been amended to recite "manipulating the information further comprises evaluating the interaction between the dietary information and medication information and said table of information further comprises drug/food contraindications." The insertion is at least supported by the specification at page 13, paragraph 2. The office action, at page 7, states that "Shapira teaches the evaluation of the interaction between the dietary information and medication information as follows" and provides passages referenced at col. 8, lines 3-12, and col. 3, lines 13-17. The first passage, at column 8, provides tests under which patients were evaluated. It is not seen how this provides a prima facie case, as it fails to provide an "evaluation of the interaction between the dietary information and medication information" or the amended limitation of "drug/food contraindications." The second passage, at column 3, appears to relate to the fact that people who use monoamine oxidase inhibitors need to avoid drug interactions. The fact that certain people need to avoid drug interactions does not teach or suggest the claim 3 recitation of "manipulating the information further comprises evaluating the interaction between the dietary information and medication information and said table of information further comprises drug/food contraindications." Accordingly, withdrawal of the rejection of

claim 3 is respectfully requested for the above reasons, in addition to the fact that claim 3 is dependent on allowable base claim 1.

Claim 4 has been amended to recite that the computer manipulates the transmitted information to provide a summary of appropriate dietary information based on said plurality of factors, wherein the factors include anthropometric, metabolic, life stage, and dietary prescription data. The combination of references, Short, Kretsch, Anderson, and Brown, do not teach or suggest the combination of factors including anthropometric, metabolic, life stage, and dietary prescription data. Accordingly, withdrawal of the rejection of claim 4 and its dependent claims 5, 6, and 19-22 is respectfully requested.

Claims 7-10 were rejected as being unpatentable over Haudenschild, Mellinger, Schroeder, Umbdenstock, Hankins, Goldman, and Longabaugh. Claim 7 has been amended to more clearly recite the claimed invention. In the wherein clause, the menu plan has been connected to "a user" and the nutritional and medication databases have been supplemented with the phrase "to access information based on nutrition and drug/food contraindications" to overcome the rejection under section 101.

The purported motivation to combine the seven applied patents is that the patents "teach the use of databases" and "teach the use of food." Such statements are so general that their use indicates that the applied combinations are based on improper hindsight reconstruction. For example, Schroeder has nothing to do with the other references, or the claims, except for the fact that he uses the word

"anthropometric." Additionally, the rejections of claims 8, 9, and 10 do not provide any reason whatsoever why the applied combination would have been obvious at the time the invention was made.

Moreover, a prima facie case has not been made. For example, the citations to Umbdenstock and Longabaugh are not related to "a system for communicating dietary information ..." as claimed; rather, Umbdenstock relates to a method of treating addicts by ingesting a nutritional supplement and Longabaugh is directed to controlling the operation of a commercial deep-fryer cooker. In addition, the reference to col. 4, lines 33-36, of Longabaugh and the reference to col. 6, lines 59-63, and col. 20, lines 47-50, of Haudenschild are not understood in the context of the recitations of claims 7 and 9, respectively. Accordingly, for the reasons set forth above, withdrawal of the rejection of claims 7, 9, and 10 is respectfully requested.
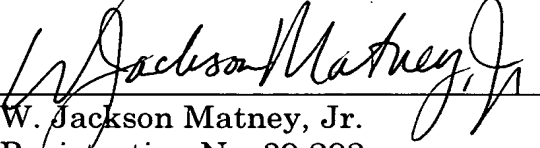
CONCLUSION

In view of the foregoing, the application is respectfully submitted to be in condition for allowance, and prompt favorable action thereon is earnestly solicited.

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response; please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #100068/51817US).

Respectfully submitted,

June 24, 2003

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Overview Page

122 about e3 squares		
124 display		
126 benefits offered		
128 site layout/tour		
130 membership benefits		
132 consult a dietician		
133 consult a physician		
134 newsletter		
136 privacy statement		
138		

102 interview
104 today's menu
106 this week's menu
108 recipes
110 restaurants
112 inventory
114 shopping
116 education
118 community
120 lifestyles
140 tracking
142 computations
150 help

Figure 4

OK To enter
W. E. Dodds
8/15/03

200

Interview Screen

102 interview
104 today's menu
106 this week's menu
108 recipes
110 restaurants
112 inventory
114 shopping
116 education
118 community
120 lifestyles
140 tracking
142 computations
150 help

201 personal data
202 anthropometrics
203 special metabolic needs
204 food preferences
205 health status
206 food & allergies
207 life stage
208 dietary prescription
209 cooking complexity
210 meal plan override
211 professional referral

Figure 5

Weekly Menu Screen

300

301 Members

302 display

303 gauges

305 budget

102 interview

104 today's menu

106 this week's menu

108 recipes

110 restaurants

112 inventory

114 shopping

116 education

118 community

120 lifestyles

140 tracking

142 computations

150 help

Figure 6

Daily Menu Screen

400

401 members

402 display

403 gauges

405 budget

102 interview
104 today's menu
106 this week's menu
108 recipes
110 restaurants
112 inventory
114 shopping
116 education
118 community
120 lifestyles
140 tracking
142 computations
150 help

Figure 7

Restaurant Menu Screen

500

501 members

502 display

503 gauges

102 interview
104 today's menu
106 this week's menu
108 recipes
110 restaurants
112 inventory
114 shopping
116 education
118 community
120 lifestyles
140 tracking
142 computations
150 help

Figure 8

Shopping Screen

| 102 interview | 104 today's menu | 106 this week's menu | 108 recipes | 110 restaurants | 112 inventory | 114 shopping | 116 education | 118 community | 120 lifestyles | 140 tracking | 142 computations | 150 help |

| 601 store(s) | 602 today's list | 603 entire list | 604 edit list | 605 kitchen items | 606 online grocer | 607 generate list | 608 online special | 609 competitive bids | 612 display |

600

Figure 9

Inventory Screen

102 interview		701 food inventory	
104 today's menu		702 kitchen inventory	
106 this week's menu		703 build shopping list	
108 recipes		704 online grocer	
110 restaurants		705 competitive bids	
112 inventory			
114 shopping			
116 education			
118 community			
120 lifestyles			
140 tracking			
142 computations			
150 help			

700

Figure 10

800

Education Screen

102 interview
104 today's menu
106 this week's menu
108 recipes
110 restaurants
112 inventory
114 shopping
116 education
118 community
120 lifestyles
140 tracking
142 computations
150 help

Figure 11

Lifestyles Screen

900

901
newsletters

902
chat room

903
culinary travel

904
food camps

905
spas

906
cooking schools

907
personal chef referrals

102
interview

104
today's menu

106
this week's menu

108
recipes

110
restaurants

112
inventory

114
shopping

116
education

118
community

120
lifestyles

140
tracking

142
computations

150
help

Figure 12

Tracking Screen

'1000

| 1001 enter data |
| 1002 weight tracking |
| 1003 cholesterol tracking |
| 1004 calorie intake |

| 102 interview |
| 104 today's menu |
| 106 this week's menu |
| 108 recipes |
| 110 restaurants |
| 112 inventory |
| 114 shopping |
| 116 education |
| 118 Community |
| 120 lifestyles |
| 140 tracking |
| 142 computations |
| 150 help |

Figure 13

Computation Screen

1100

1101 computations
1102 calories per individual per day
1103 grams of protein per individual per day

102 interview
104 today's menu
106 this week's menu
108 recipes
110 restaurants
112 inventory
114 shopping
116 education
118 community
120 lifestyles
140 tracking
142 computations
150 help

Figure 14